

**MEMORANDUM OF UNDERSTANDING**

**As amended**

**Between**

**COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION**

**And**

**NATIONAL MARINE FISHERIES SERVICE**

**On the**

**PACIFIC COASTAL SALMON RECOVERY FUND  
FOR COLUMBIA RIVER TRIBES**



**INTRODUCTION**

This Memorandum of Understanding (MOU) is entered into by the National Marine Fisheries Service (NMFS), a federal agency within the U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) and the Columbia River Inter-Tribal Fish Commission (CRITFC) on behalf of and at the direction of its member tribes. NMFS and CRITFC enter this MOU pursuant to authorities under the Endangered Species Act (16 U.S.C. 1531 et seq.) and pursuant to authorities and in furtherance of the programmatic goals and objectives of the Pacific Coastal Salmon Recovery Fund (PCSRF) as authorized under 16 U.S.C. 3645 (d)(2), and consistent with Congressional intent, the federal-tribal trust relationship, and other relevant federal authority.

This MOU provides the basis for the Commission to approve projects, and disburse PCSRF funds to tribal organizations, as authorized by Congress for the Columbia River Tribes in 16 U.S.C. 3645 (d) (2). The federal funds provided to CRITFC through the PCSRF will be distributed to eligible tribal salmon and steelhead recovery activities and projects in the Columbia River basin.

**PARTIES**

The Columbia River tribes enter into this MOU through the Columbia River Inter-Tribal Fish Commission (CRITFC). The CRITFC was formed in 1977 by resolution of the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon and the Confederated Tribes and Bands of the Yakama

Nation. CRITFC provides coordination and technical assistance to ensure that the resolution of outstanding treaty fishing rights issues guarantees the continuation and restoration of tribal fisheries into perpetuity. Since 1979, CRITFC has contracted with the Bureau of Indian Affairs under the Indian Self-Determination Act (Public Law 93-638) to provide this technical support. Each of the four tribes of the CRITFC has, under treaties with the United States of America<sup>1</sup>, reserved sovereign rights and authorities to themselves, including the use of, and management authority and responsibilities for, the fisheries resources originating in or passing through their original lands and territories and traditional use areas.

NMFS enters into this MOU through its Northwest Regional Office, which has primary day-to-day responsibility for federal activities related to the protection and recovery of salmon and steelhead populations in the Pacific Northwest.

## **PURPOSE, GOALS AND OBJECTIVES**

The purpose of this MOU is to generally describe the strategies to be used by the CRITFC to allocate the PCSRF monies that will be issued to CRITFC under a NOAA grant for projects related to salmon habitat restoration, salmon stock enhancement, salmon research, supplementation activities and other programmatic activities geared to the restoration of salmon, consistent with the overall performance goals of the PCSRF. CRITFC will allocate funding only to projects and activities that seek to protect and restore salmonid species in the Columbia River basin.

The goal of the tribes, individually and acting through CRITFC, is to restore healthy, sustainable salmon populations and other fishes throughout the Columbia River basin so that they may meaningfully exercise treaty rights they have reserved to themselves under treaties with the U.S. Tribal and CRITFC staff have developed a watershed-based framework designed to restore fisheries in the Columbia River Basin, *Wy-Kan-Ush-Mi Wa-Kish-Wit* (Spirit of the Salmon). The tribes' restoration plan identifies threats to salmon, proposes hypotheses based upon adaptive management principles to address those threats, and provides specific recommendations and practices that must be adopted by all natural resource managers to restore healthy fish populations and meet treaty obligations. *Wy-Kan-Ush-Mi Wa-Kish-Wit* can be viewed at [www.critfc.org](http://www.critfc.org).

## **Project Selection Process**

To meet these MOU objectives, CRITFC will utilize an internal project review process to assure

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<sup>1</sup> Treaty with the Yakama Tribe, June 9, 1855, 12 Stat. 951; Treaty with the Tribes of Middle Oregon, June 25, 1855, 12 Stat. 963; Treaty with the Umatilla Tribe, June 9, 1855, 12 Stat. 945; Treaty with the Nez Perce Tribe, June 11, 1855, 12 Stat. 957.

that projects will be consistent with PCSRF performance goals and Congressional guidance; and 2) the tribes' goals and objectives.

CRITFC will coordinate salmon recovery efforts and facilitate the efficient and productive use of PCSRF monies. CRITFC will enter into sub-recipient agreements with each tribe that establish funding criteria consistent with this MOU and intertribal agreements concerning distribution of these funds. Tribal sub-recipient agreements will specify project proposal, reporting, and monitoring criteria to ensure tribal activities funded through this MOU are consistent with Congressional intent and PCSRF performance goals to advance Pacific salmon and steelhead recovery efforts.

CRITFC's role is to coordinate the tribes' overall strategy to enhance their salmon restoration efforts by ensuring projects are consistent with the PCSRF authorization and performance goals and that tribal projects result in measurable benefits for salmon and steelhead and their habitats. CRITFC will evaluate and approve project proposals from each of the four tribes or the CRITFC based upon the salmon restoration strategies described in the tribes' salmon restoration plan.

In accordance with 16 U.S.C. 3645 (d) (2) and PCSRF goals and objectives, CRITFC will allocate funds to the following types of projects:

- Salmon-related habitat restoration and conservation projects;
- Salmon watershed assessment, recovery planning, and coordination projects;
- Salmon stock enhancement and supplementation projects;
- Salmon restoration research and data collection;
- Monitoring/evaluation and maintenance of PCSRF projects; and,
- Other programmatic activities geared to the restoration of salmon and steelhead, consistent with the overall goals of the PCSRF.

For salmon stock enhancement and supplementation programs that utilize artificial propagation, those projects that are consistent with current NMFS hatchery biological opinions from ESA consultations on production or supplementation in the Columbia River Basin may be funded without further consultation under the ESA. For salmon stock enhancement projects that are not consistent with current biological opinions, NMFS, at the request of the sponsoring tribe, will expedite ESA consultation, dependent on available resources, to address the project.

CRITFC will consult with NMFS on project proposals that include activities previously supported by other funding, and document the decision to continue or augment these activities under PCSRF funding.

**Project Proposals.** Project proposals will be submitted for review and approval by the CRITFC at one of its regularly scheduled or special Commission meetings as timely and appropriate, consistent with the above guidelines and will include at a minimum:

- 1) A project title, project manager and key staff, project description, project category,

a clear statement of objectives, and an explanation on how the project promotes restoration and conservation of salmon populations. If there are ESA-listed populations that may be affected by the project, then information for NMFS to complete a consultation under the ESA as provided for under this MOU is required. Also required is the geographic area to be covered, timeframe, and other information as required under the Request for Proposals outline;

- 2) Detailed budget;
- 3) Performance measures – how to assess achievements
- 4) Estimated time to complete or implement the project; and,
- 5) A monitoring and/or evaluation protocol for measuring and reporting project benefits.

## **MONITORING, EVALUATION AND REPORTING**

Each tribe will monitor projects for which it is receiving funding pursuant to this MOU for consistency with the project proposal submitted and will, in conjunction with the CRITFC, evaluate the immediate or anticipated measurable benefits of the project, particularly for its value in addressing factors limiting production or productivity of salmon stocks. Each tribe will submit a report to the CRITFC as provided for in the approved project proposals that describes the measurable benefits of the project, especially the manner in which the project has, or will increase the production and/or productivity of salmon stocks. CRITFC will compile these reports, along with reports on its own salmon recovery activities on behalf of the four tribes pursuant to this MOU for annual submission to NMFS, other tribal, federal or state agencies as appropriate, and for public distribution, for so long as funding is provided to the Columbia River tribes to carry out such activities and purposes under the PCSRF.

CRITFC will update the NMFS database as new or modified project information becomes available, or at least quarterly, so that the PCSRF database contains accurate descriptions and performance metrics for all completed, ongoing, and proposed projects. On a quarterly basis, the CRITFC will download and complete the PCSRF fiscal verification report and submit it to NMFS.

## **FUND DISTRIBUTION**

CRITFC shall distribute the funds to each one of the four tribes and to CRITFC for projects consistent with this MOU and applicable agreements. CRITFC will ensure the maintenance of up-to-date data in the PCSRF database. No other individual, organization, or entity is entitled to funding under this MOU.

This MOU does not constitute a financial commitment on the part of any party. Financial support shall be subject to the budgetary and administrative procedures of NOAA and the CRITFC.

## OTHER PROVISIONS

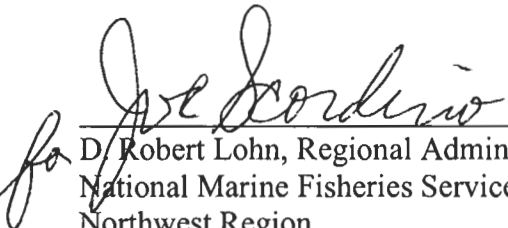
Nothing herein is intended to conflict with current Department of Commerce or CRITFC directives. If the terms of this MOU are inconsistent with existing directives of either of the agencies entering into this MOU, then those portions of this MOU which are determined to be inconsistent shall be invalid; but the remaining terms and conditions not affected by the inconsistency shall remain in full force and effect. Any changes to this MOU will be accomplished by either a written amendment or by entering into a new MOU; whichever is deemed expedient to the interest of both parties. Any disputes regarding this MOU or its implementation, which cannot be resolved at the operating level, shall be resolved by the NMFS Northwest Regional Administrator and the Chairman or Executive Director of CRITFC.

Execution of this MOU does not imply any authorization of incidental "take" of listed species under the ESA. CRITFC will require that all sub-agreements include the stipulation that project actions that may take ESA-listed populations cannot commence until an ESA consultation has been completed and that they comply with applicable local, state and federal permitting requirements.

## IMPLEMENTATION

This amended MOU is effective when signed by both Parties and supercedes prior MOUs. Federal funding for the Tribes through CRITFC will be provided to CRITFC through a NOAA Financial Assistance Award.

Signed this 2nd day of June 2005.

  
D. Robert Lohn, Regional Administrator  
National Marine Fisheries Service  
Northwest Region

  
Olney Patt, Jr., Executive Director  
Columbia River Inter-Tribal Fish Commission